

Fair Credit Billing Act

Has the department store's computer ever billed you for merchandise you returned to the store or never received? Or has a credit card company ever charged you twice for the same item or failed to properly credit a payment made on your account? Credit billing errors happen and they are easy to resolve if you know how to use the Fair Credit Billing Act (FCBA). Congress passed this law in 1975 to help consumers resolve disputes with creditors and to ensure fair handling of credit accounts.

Which credit transactions are covered?

The FCBA generally applies only to "open end" credit accounts. Open end accounts include credit cards, revolving charge accounts (such as department store accounts, and overdraft checking. The periodic bills, or billing statements, you receive (usually monthly) for such accounts are covered by the FCBA. The Act does not apply to a loan or credit sale which is paid according to a fixed schedule until the entire amount is paid back.

What types of disputes are covered?

The FCBA settlement procedure applies only to disputes over "billing errors" on periodic statements, such as the following:

- Charges not made by you or anyone authorized to use your account.
- Charges which are incorrectly identified or for which the wrong amount or date is shown.
- Charges for goods or services you did not accept or which were not delivered as agreed.
- Computer or similar errors.
- Failure to properly reflect payments or other credits, such as returns.
- Not mailing or delivering bills to your current address (provided you give a change of address at least 20 days before the billing period ends).
- Charges for which you request an explanation or written proof of purchase.

How do you dispute a credit transaction?

You must notify the card issuer **IN WRITING** within 60 calendar days of transmittal of the periodic billing statement. If you do not receive a billing statement; the 60 days begins to run from the time the creditor should have sent it.

What must the written notice of dispute contain?

The consumer's billing error notice must contain:

- Sufficient information to enable the creditor to identify the consumer and his/her account number; and
- To understand the nature of the complaint
- The notice must be sent to the correct address for billing error inquiries (the notice must be received at that place for it to be effective).
- After the consumer gives notice, he/she can may withhold payment of the disputed amount or pay the amount without waiving billing error rights

What about your credit score?

While a bill is being disputed, the creditor may not threaten to damage your credit rating or report you as delinquent to anyone. However, the creditor is permitted to report that you are disputing your bill.

Another federal law, the Equal Credit Opportunity Act, prohibits creditors from discriminating against credit applicants who, in good faith, exercise their rights under the FCBA. You cannot be denied merely because you have disputed a bill.

If the Creditor made a mistake

If your bill is found to contain a billing error, the creditor must write you explaining the corrections to be made on your account. In addition to crediting your account with the amount not owed, the creditor must remove all finance charges, late fees, or other charges relating to that amount. If the creditor concludes that you owe part of the disputed amount, this must be explained in writing. You also have the right to request copies of documents proving you owe the money.

If the bill is correct

If the creditor investigates and still believes the bill is correct, you must be told promptly in writing how much you owe and why. You may also ask for copies of relevant documents. At this point, you will owe the disputed amount, plus any finance charges that accumulated while it was disputed. You may also have to pay the minimum payment amount missed because of the dispute.

If you still disagree

Even after the FCBA dispute settlement procedure has ended, you may still feel the bill is wrong. If this happens, write the creditor within 10 days after receiving the explanation and say you still refuse to pay the disputed amount. At this point, the creditor may begin collection procedures. However, if the creditor reports you to a credit bureau as delinquent, he must also state that you don't think you owe the money. Also, you must be told who receives such reports.

If the creditor does not follow the procedures

Any creditor who fails to follow the FCBA dispute settlement procedure may not collect the amount in dispute, or any finance charges on it, up to \$50.00, even if the bill turns out to be correct. For example, this penalty would apply if a creditor acknowledged your complaint in 45 days (15 days too late) or takes more than two billing cycles to resolve the dispute. It also applies if a creditor threatens to report - or goes ahead and improperly reports-your nonpayment to anyone. You also have the right, as more fully described below, to sue a creditor for any violation of the FCBA.

Complaints about product quality

Disputes about the quality of goods and services are not necessarily "billing errors," so the dispute procedure may not apply. However, if you purchase unsatisfactory goods or services with a credit card, the FCBA allows you to take the same legal actions against the credit card issuer as you could take under state law against the seller. If your state law permits you to withhold payment to a seller for defective merchandise, or pay and sue for a refund, you might also be able to withhold payment to your credit card issuer. Because state laws on your right to stop payment vary, it is best to get legal advice from your Legal Assistance Office before you do so.

However, before you take legal action, you must give the seller a chance to remedy the problem. Also, unless the seller is also the card issuer (such as a company that issued you a gasoline credit

card), you must have bought the item in your home state of within 100 miles of your current mailing address, and the amount charged must have been more than \$50.00.

Other Billing Rights for Consumers

The FCBA also requires "open end" creditors to do the following for their customers:

- Give you a written notice when you open a new account, and at other specified times, describing your right to dispute a billing error.
- Provide a statement for each billing period in which you owe-or they owe you-more than \$1.00.
- Mail or deliver your bill to you at least 14 days before the payment is due, if you are given a time period within which to pay the bill without incurring additional finance or other charges.
- Credit all payments to your account as of the date they are received, unless not doing so would not result in extra charges.
- Promptly credit or refund overpayments.

You can sue a creditor who violates any FCBA provisions

If you win, you may be awarded damages resulting from the violation, plus twice the amount of any finance charge (not less than \$100.00 or more than \$1,000.00). The court may also order the creditor to pay your attorney's fees and costs. You may consult your Legal Assistance Office for advice about such lawsuits, but a military legal assistance attorney will generally not be able to represent you in court. If possible, retain a private attorney who is willing to accept whatever fee the court awards as the entire fee for representing you. Some lawyers may not be willing to accept your case unless you agree to pay their fee - win or lose - or if you will add to a fee awarded by the court but which they believe is too low. Be sure you get a full explanation of what it could cost before you go to court. Your military Legal Assistance Office can help you with these explanations.